IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 21832 of 2007(Y)

PETITIONER:

SAJI GEORGE, S/O.GEORGE,
MULLAMKUZHY HOUSE, ITHITHANAM, CHANGANASSERY,
KOTTAYAM DISTRICT, PIN-686 535.

BY ADV. SRI.G.HARIHARAN

RESPONDENTS:

1. TAHSILDAR, CHANGANACHERRY.

2. P.R.RADHAKRISHNA PANICKER, REVENUE DIVISIONAL OFFICER (IN-CHARGE), KOTTAYAM.

3. REVENUE DIVISIONAL OFFICER, KOTTAYAM.

4. DISTRICT COLLECTOR, KOTTAYAM.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

==========

W.P.(C).No.21832 of 2007

==========

Dated this the 17th day of July, 2007

J U D G M E N T

The petitioner filed Ext.P2 appeal under Section 53 of the Revenue Recovery Act challenging the auction conducted pursuant to Ext.P1 sale notice issued by the Tahsildar, Changanassery. The appeal is to be heard by the Revenue Divisional Officer. The contention of the petitioner is that presently the 2nd respondent who is holding the charge of the R.D.O. is going to hear the appeal. The allegation is that the 2nd respondent himself was the person who conducted the sale and therefore, if he hears the appeal also, the petitioner would not get justice. The petitioner, therefore, seeks the following reliefs:

> "i. Issue a writ of mandamus or any other appropriate writ restraining the 2nd respondent from hearing Exhibit.P2 appeal in view of the reason that the proceedings impugned in the appeal are passed by him in the capacity of Tahsildar.
>
> ii. Issue a writ of mandamus or any other appropriate writ commanding the 4th respondent to place Exhibit.P2 appeal before any other authority competent to hear Exhibit.P2 appeal in the interest of justice."

2. The learned Government Pleader, on instructions, submits that although it was the 2nd respondent who issued the sale notice, auction was not conducted by the 2nd respondent and therefore, there cannot be any bar in the 2nd respondent hearing the appeal. The learned counsel for the petitioner would submit that as per the information of the petitioner, the 2nd respondent himself had conducted the auction. He could not specifically refute the statement of the learned Government Pleader. In the above circumstances, the statement of the learned Government Pleader is recorded and the writ petition is closed.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.